

WATER DISTRICT 34
ADVISORY COMMITTEE

June 26, 2013

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RECEIVED

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Department of Water Resources

VIA EMAIL TO NLM
fr. Mitch Sorenson

RE: Advisory Committee Mitigation Plan Non-Acceptance Answer and Subsequent Work Plan

Dear Nick,

The Advisory Committee (AC) met on June 18, 2013, to review your June 12, 2013, letter informing us that the Rule 50 Mitigation Plan submitted by Water District No. 34 was not approved by the Director. At that meeting we also discussed several other matters regarding the regulation, distribution, and accounting of water supplies the water district is responsible for.

All of the current issues before the AC are extremely important to us and require our attention. The challenge is knowing when and how to act upon each of the issues in a constructive manner, and to do so without complicating or confusing the daily operations of the water district. These matters require sorting between fundamental and secondary tasks of operation. Some matters need only initial alignment and then can be set aside temporarily while higher priority issues are worked on. After each issue is properly framed, task determined, and transparent reports have begun, multiple issues can then be worked on concurrently. Of course this sequencing can always be interrupted if any party or individual chooses to push their agenda to the top of the "must do(s)" list. The following is our answer and subsequent work plan regarding how the AC intends to move forward with all of the current issues.

Answer. Avoid the arduous burden and proceedings of the CMRs and preserve the viability of Rule 50.

In response to IDWR's non-acceptance of the initial mitigation plan, the AC has determined it is imperative we preserve the integrity and viability of Rule 50. We will do so by acting on the following items:

Action Item 1.) We have formed a subcommittee of the AC that will meet with the mitigation callers in confidential negotiations during the next 30 days. The subcommittee will identify exactly what the mitigation callers would require to avoid initiating a CMR proceeding, and ask them to temporarily suspend their request for Rule 50 mitigation until the items and tasks listed below are accomplished and implemented.

Action Item 2.) The subcommittee will report to the AC the needs of the callers and the tentative terms of settlement. The AC will determine if those terms can reasonably be provided, and forward those terms and potential new tasks to IDWR officials. It is believed by the AC that a

completion of Task(s) 1, 2, and 3 would substantially satisfy many of the callers concerns. Time will tell.

Action Item 3.) Provide some amount of acquired mitigation water supply for the general river augmentation in the 2nd semester of 2013. Use the remaining portion of this season to learn the procedures and protocols needed to acquire and properly describe potential water rights so the watermaster, water district staff, AC, and public will understand how, why, and what is required.

Action Item 4.) Re-submit the Water District Rule 50 Mitigation Plan at an appropriate time when the fundamentals of water management have been accomplished.

Task 1. Continue to improve those methods that determine the available supply of natural flow and how it is allocated by water right priority to those who are calling for irrigation water. A form of this operational task is currently being conducted by the watermaster on a daily basis. The watermaster has provided to the AC the reports he is currently using to determine how much water is available in the river reaches, and how much water is being diverted into ditch/canal headings. But these reports do not clearly distinguish how much of each supply type is being diverted into the various laterals and canals. This type of information gap needs to be remedied. However, suffice it to say that the available water supplies are being diverted and beneficially used by someone.

Some of the internal evaluation questions we are asking ourselves are:

- a.) How do we fill in the informational gaps with real, useful, and accurate data?
- b.) How can the current reports be improved and made more useful for purposes of determining if water users are being injured or receiving their full entitlement?
- c.) How do we build water user confidence in the reports, and are water users willing to pay for better data collection to make better reports?
- d.) Will better reports reduce, or even avoid, allegations of misconduct, mitigation calls, investigations of local authorities, and extended periods of water supply interruption to individual water users?
- e.) How much transparency of field data and reporting systems is needed?

The questions can become endless, and sometimes endless questions are only used to distract us from the real issues. What we have decided is to use the reports we have (filling in the informational gaps as best we can) until you provide us with the new independent accounting system. We understand this new system may need to be “tweaked” as it is introduced into the water district record system, but let’s get on with it. The sooner the better, so we can get to the next real issue that must be dealt with.

Task 2. The proper measuring, regulating, and recording of all groundwater diversions within the basin. The implementation of this task has far reaching ramifications. Currently we are trying to justify allocating the costs of mitigation burdens proportionately among groundwater users based on a very inaccurate “white paper”. Recent reports to the AC suggest some wells (10-15%) are being measured

redundantly only because they have measuring devices that can be measured, while most wells (85-90%) have no measuring device to determine either the rate of diversion or the annual volume of pumpage. This is creating an atmosphere of partiality and erratic regulation.

The proper regulation and accounting of all groundwater usage in the basin will ensure the appropriate allocation of mitigation costs, equitable allocation to annual budgets, proper voting credentials, and the lawful use and diversion of the water resource. Without the proper accounting of both surface and ground water diversions, there is the strong likelihood that partial decree limitations of combined rates of diversion and annual volumes may be exceeded. The point is, before mitigation costs are assessed we should have enough accounting ability to ensure the alleged injury is not really caused by the failure to comply with and enforce the decrees, general provisions, and promulgated rules.

Task 2 would be greatly simplified if you would issue the administrative ground water measurement order you have spoken about for the last two years. The watermaster and AC have directed a deputy to commence the inspection of all wells in the basin to determine if pumpage is or has occurred, and if each well can be measured in preparation of the expected issuance of this forthcoming measurement order. This part of the task is already proving to be most helpful.

Task 3. Build more confidence in the watermaster and water district reports by making them transparent and available to the public. Water rights are private property rights that compete for the natural water resource by priority and are frequently co-mingled in conveyance systems as water supplies are delivered to field headgates. The only way to protect these private water rights is to do the regulating and distributing in an open and fair social environment. To that end the AC has asked water district personnel to begin building and posting on a web site the reports that are used to determine Task 1 and eventually Task 2. We expect those reports will be upgraded as improved accounting systems come on-line.

The AC hopes you find this answer and work plan useful. We are committed to doing our part and are willing to assist IDWR as you do your part. We look forward to hearing from you, and will keep you informed as we continue along this path of improving water management.

Sincerely,

The Advisory Committee

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